IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE ELIPE DHARMA RAO**

**WRIT PETITION NO : 291 of 1997**

Between:

1. C. Subba Reddy s/o late C. Venkata Reddy, Hindu, Aged: 51 years, residing at Reddivaripalle village, Irala Post and Mandal, Chittor district.

2. C. Suseelamma w/o C. Subba Reddy, Hindu, Aged: 41 years, Cultivation, residing at Reddivaripalle village, Irala Post & Mandal, Chittor district.

**..... PETITIONERS**

AND

1. The District Collector, Chittor.

2. The Revenue Divisional Officer-cum-Land Acquisition Officer, Chittor.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ more particularly in the nature of Writ of Mandamus declaring that the entire proceedings of respondents commencing from issuance of Section 4 (1) notification upto issuance of Sections 9 & 10 notices under the Land Acquisition Act covered by Roc.F/5595/94 as illegal, void, violative of principles of natural justice and discriminary and directing the respondents to drop the land acquisition

proceedings in respect of the petitioners dry lands in S.Nos. 404/2, 404/3; 404/4; 404/5-A, 404/5-B & 406/2 in Morampalle village Accounts, Irala Mandal, Chittor district.

**Counsel for the Petitioner: MR.K.S.GOPALA KRISHNAN**

**Counsel for the Respondent Nos. 1 & 2: G.P. FOR LAND ACQUISITION.**

**The Court, at the stage of admission, made the following:**

Oral order:-

Aggrieved by the action of the respondents in initiating the proceedings to acquire the petitioners' dry land in small extent of Ac. 0-75 cents out of total extent of their holding of Ac. 2-00 and odd in survey Nos. 404, 405 and 406 of Morampalle village for providing house sites to Thoti Dalits in Thoti Dalitwada. It is stated that other landowners towards south and west of Thoti Harijanwada are willing to part with their lands. Their land is proximate to Thoti Dalitwada. The petitioners submit that they raised mango, coconut gardens in part of their land and rest is being cultivated with sugarcane and paddy crops. Four borewells were dug out of which two borewells are useless and one is fitted with electric pumpset to irrigate their smallholding. While so, the notification under Section 4 (1) of the Land Acquisition Act was published in the daily newspaper on 14-02-1996 dispensing with the inquiry under Section 5-A of the Act. Challenging the notification issued under Section 4 (1) of the Act and invoking the urgency clause dispensing with the inquiry under Section 5-A of the Act, the petitioners filed W.P.No. 5575 of 1996 before this court. By order dated 19-03-1996 this court disposed of the W.P.No. 5575 of 1996, while directing the respondents not to dispossess the petitioners until completion of the enquiry under Section 5-A of the Act and that without prejudice to the right of the petitioners to question the notification issued under Section 4 (1) of the Act again after the completion of enquiry under Section 5-A of the Act.

Pursuant to the orders of this court, notice in Form No.3 dated 15-07-1996, with amended schedule and without issuing fresh notification under Section 4 (1) of the Act, was issued for conducting enquiry under Section 5-A of the Act giving 15 days time for filing objections and fixing 30-07-1996 as the date for their appearance. Objections were filed on 30-07-1996. However, petitioners received notices dated –nil-- January, 1997 under Sections 9 and 10 of the Act. In fact, the enquiry was not conducted as contemplated under Section 5-A of the Act. Hence the procedure adopted by the respondents commencing from the stage of issuing notification under Section 4 (1) of the Act upto the stage of issuing of notices under Sections 9 & 10 of the Act be declared as illegal, arbitrary and violative of principles of natural justice.

The respondents filed counter stating that on making a representation by the Daliths of Thoti Dalithawada to provide house site pattas to them, since the existing Dalithawada is congested, an extent of Ac. 0-89 cents of patta dry land in survey Nos. 404/2, 404/3, 404/4, 404/5-A, 404/6-A, 405/3B and 406/2 was selected to provide 16 house sites. The draft notification and draft declaration proposals for acquisition of Ac. 0-89 cents in survey No. 404/2 etc., of Morampalle village were submitted to the Collector for providing house sites to Scheduled Castes of Thoti Dalithawada. The draft notification and draft declaration proposals were approved on 06-02-1996 by the Collector and accordingly they were published in the gazette as well as newspapers. Upon the directions of the High Court in W.P.No. 5576 of 1996, notice under Section 5-A of the Act for conducting inquiry on 30-07-1996 were issued for which the owners of the lands filed their written objections. The respondents denied the contention of the petitioners that there were mango and coconut trees in the land proposed for acquisition. The respondents dispute the contention of the petitioners that they are small farmers. The petitioners being wife and husband are owning dry land of Ac. 10-85 cents. In view of the fact that the objections filed by the land owners were over ruled and fresh draft declaration proposals were submitted to the Collector by letter dated 08-08-1996, the proposals were approved by the Collector in his proceedings dated 28-08-1996 and publication of notification under Section 4 (1) was effected. Notices under Sections 9(1) and 10 of the Act were published on 02-01-1997 and notice under Section 9 (3) and 10 of the Act were issued to the land owners directing them to appear before the R.D.O., Chittor on 16-01-1997 for award enquiry and notices were served on the land owners on 08-01-1997. The petitioners engaged an advocate and filed vakalathnama on 16-01-1997 to represent their case. At that stage, this writ petition is filed. According to the respondents, the petitioners are big farmers. The beneficiaries for whose purpose the land is sought to be acquired are living in congested and unhygienic atmosphere.

On perusal of the allegations and counter allegations, it is to be seen that the enquiry under Section 5-A of the Act is pending before the authorities. After filing vakalathnama in the inquiry under Section 5-A of the Act to defend their case, without concluding the same, the petitioners approached this court. The contentions urged in this writ petition can be urged as well before the authorities, who may consider and dispose of the same in accordance with law. Therefore, I see no

reason to interfere in this writ petition. Accordingly, the writ petition is dismissed. No order as to costs.

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ELIPE DHARMA RAO, J

Dt. 13-07-2005

Pvks/*

To

1. The District Collector, Chittor.
2. The Revenue Divisional Officer-cum-Land Acquisition Officer, Chittor.
3. 2 CCs., to the learned Government Pleader for Land Acquisition, A.P. High Court Buildings, Hyderabad (OUT).
4. 2 CD copies